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| APPLICATION NO.              | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------|-------------|----------------------|---------------------|------------------|
| 10/617,493                   | 07/10/2003  | Baoloc Le            | 50442/DMC/S584      | 2843             |
| 7590                         | 09/03/2004  |                      | EXAMINER            |                  |
| CHRISTIE, PARKER & HALE, LLP |             |                      |                     | COCKS, JOSIAH C  |
| P.O. BOX 7068                |             |                      |                     |                  |
| PASADENA, CA 91109-7068      |             |                      |                     | ART UNIT         |
|                              |             |                      |                     | PAPER NUMBER     |
|                              |             |                      |                     | 3749             |

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |              |
|------------------------------|-----------------|--------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s) |
|                              | 10/617,493      | LE ET AL.    |
|                              | Examiner        | Art Unit     |
|                              | Josiah Cocks    | 3749         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/16/2004</u> . | 6) <input type="checkbox"/> Other: _____.  |

## DETAILED ACTION

### *Drawings*

1. The formal drawings filed 1/26/2004 are accepted by the examiner.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-18, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,148,813 to Barnes et al. (“*Barnes*”) (cited by applicant).

*Barnes* discloses in Figures 1-7 the invention substantially as described in applicant’s claims 1-18, 21, and 22. In particular, *Barnes* discloses an oven (2) and an extendable oven rack assembly that includes an oven rack (28), two full extension slides (77), opposing wire frames (see Fig. 3), a first bracket coupled to each slide and having a channel receiving a single cross-bar (117) of the wire frame and a second bracket coupled to each slide and having a channel and a ledge (see Figs. 4 and 5) wherein the extendable assembly functions to allow an oven rack to be moved from a position within the oven cavity to a position outside the oven cavity (see col. 1, lines 49-61). *Barnes* further discloses means for locking the extension slides in a pre-defined position (see notches

129 and 130 and col. 6, lines 15-33) and the sides of the rack frame are configured to rest on ledges (22, 23, 24, 25) on side walls of the oven cavity (see Fig. 1).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Barnes* as applied to the claim 17 above in view of U.S. Patent No. 1,918,457 to Dowell ("Dowell").

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*Barnes* discloses all the limitations of claims 19 and 20 except for a extending tab that forms a leaf spring configured to press against side walls of the oven cavity and further that the tab includes a plastic sleeve.

*Dowell* teaches an oven rack in the same field of endeavor as *Barnes* wherein the rack of *Dowell* includes spring clips (18) that form leaf springs that function to secure an oven rack within an oven cavity (see page 1, lines 79-86). The spring clips (18) further include a gasket (16) arranged between the clips and the oven walls. The examiner considers these gaskets to be the equivalent of the sleeves recite by applicant. Further, to have selected a well-known material, such as plastic, for the gaskets/sleeves, would be simply an obvious matter of design choice and is not considered to be patentably distinct absent the showing of some new or improved results over the prior art of record.

Therefore, in regard to claims 19 and 20, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the oven rack of *Barnes*; to incorporate the spring clips of *Dowell* for the desirable purpose of securing the oven rack within an oven cavity to prevent rattling or dislodgment of the rack (see *Dowell*, page 1, lines 59-62), and to incorporate the gasket/sleeve of *Dowell* as this gasket desirably functions to prevent marring of the oven cavity walls (see *Dowell*, page 1, lines 51-54).

### ***Conclusion***

7. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR

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1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc  
August 26, 2004

  
JOSIAH COCKS  
PRIMARY EXAMINER  
ART UNIT 3749